

Before the
Federal Communications Commission
Washington, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Reclassification of License of |) | RM-10626 |
| Station KEZK-FM, St. Louis, Missouri |) | |
| |) | |

ORDER TO SHOW CAUSE

Adopted: January 15, 2003

Released: January 17, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a petition for rule making filed by Benjamin Stratemeyer ("Petitioner"), licensee of Station WIBV(FM), Mount Vernon, Illinois, seeking to amend the FM Table of Allotments by reallocoting Channel 271B1 from Mount Vernon to Okawville, Illinois, as the community's first local aural transmission service. Petitioner claims that, in order to meet spacing requirements to Station KEZK-FM, St. Louis, Missouri, that station must be reclassified as a Class OO facility. Station KEZK-FM presently operates on Channel 274C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 313 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of 451 meters HAAT. Petitioner asserts that because Station KEZK-FM is operating below minimum Class C standards, it is subject to reclassification as a Class OO facility pursuant to the triggering procedures adopted in the Commission's *Second Report and Order*, MM Docket No. 98-93,¹ and outlined in note 2 to Section 1.420(g) and note 4 to Section 73.3573 of the Commission's Rules. The staff has tentatively concluded that if KEZK-FM operates as a Class OO facility, any short-spacing between Station KEZK-FM and the proposed use of Channel 271B1 at the proposed Okawville site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to Infinity Radio Subsidiary Operations, Inc. ("Infinity"), licensee of Station KEZK-FM, St. Louis, Missouri to show cause why its facilities should not be reclassified.

2. Pursuant to the reclassification procedures set forth in the *Second Report and Order*, and note 2 of Section 1.420(g) of the Commission's Rules, the reclassification of a Class C FM station to a Class OO station may be initiated through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, we direct Infinity to show cause why its Station KEZK-FM's license should not be modified to specify operation on Channel 274C0 in lieu of Channel 274C at St. Louis, Missouri. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules.² In

¹ 1998 *Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rule*, 15 FCC Rcd 21649 (2000) ("*Second Report and Order*").

² See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

this instance, the reclassification of Station KEZK-FM as a Class C0 station at St. Louis, Missouri, will accommodate the reallocation of Channel 271B1, Okawville, Illinois, as proposed by Petitioner. We consider this reallocation proposed by Petitioner to have sufficient public interest benefits to justify the issuance of this order.

3. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Infinity Radio Subsidiary Operations, Inc., licensee of Station KEZK-FM, St. Louis, Missouri, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 274C0, St. Louis, Missouri.!

4. Pursuant to Section 1.87 of the Commission's Rules, Infinity may, no later than March 3, 2003, file a written statement showing with particularity why its construction permit should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this Order to Show Cause and a final Order will be issued if the modification is found to be in the public interest. If Infinity chooses to seek authority to modify Station KEZK-FM's facilities, an acceptable application for a construction permit to increase the antenna height to greater than 450 meters HAAT and 100 kW ERP or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date (March 3, 2003).

5. IT IS FURTHER ORDERED, That a copy of this Order to Show Cause shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Infinity Radio Subsidiary Operations Inc.
2000 K Street, N.W.
Suite 725
Washington, D.C. 20006

6. For further information concerning this proceeding, contact Victoria M. McCauley, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

³ The reference coordinates for Channel 274C0 at St. Louis are NL 38-21-56 and WL 89-21-02